

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

RANDY COLE and KAREN COLE,  
INDIVIDUALLY and as NEXT  
FRIENDS OF RYAN COLE,

Plaintiffs,

vs.

MICHAEL HUNTER, MARTIN  
CASSIDY, CARL CARSON, and  
THE CITY OF SACHSE, TEXAS,

Defendants.

CIVIL ACTION NO. 3:13-cv-02719-O

**PLAINTIFFS' UNOPPOSED MOTION TO ESTABLISH  
SPECIAL NEEDS TRUST AND STRUCTURED SETTLEMENT**

TO THE HONORABLE REED O'CONNOR, UNITED STATES DISTRICT JUDGE:

COME NOW RANDY COLE and KAREN COLE, Individually and as Next Friends of RYAN COLE, Plaintiffs in the above cause, and file this, their *Motion to Establish Special Needs Trust and Structured Settlement*, and would show the Court as follows:

1. The Court is well-versed in the facts and circumstances of this case. Ryan Cole sustained multiple, debilitating and disabling injuries following a shooting on October 25, 2010 with the Defendants. (Doc. 67 at ¶ 4.1-4.25). Ryan Cole not only necessitated past care, but needs future care as well. *Id.* Sadly, Ryan will need ongoing assistance with his legal, business and other personal matters for the remainder of his life due to ongoing and permanent neurologic, psychological and neuropsychological injuries. (Doc. 260 and 261).

2. The parties announced a settlement to this Court. (Doc. 288). To effectuate that settlement and to promote/protect Ryan Cole's best interest, Plaintiffs request the Court authorize a "special needs trust" under the Chapter 142 of the Texas Property Code ("Chapter 142"), as well

as 42 U.S.C. §1396p(d)(4)(C) of the Social Security Act. Plaintiffs are required to make such a request, as next friends, and the Court is permitted to authorize such a trust. Defendants are aware of this request to the Court and are unopposed to it.

3. Under 42 U.S.C. §1396p(d)(4)(C) of the Social Security Act and Chapter 142's provisions, Plaintiffs have reached agreement to create the Ryan C. Cole Special Needs Trust under the management of the Legacy Enhancement Trust ("LET"). Ryan's Trust will be enrolled and placed in and subject to LET's Master Pool Agreement. *See Exhibit "A."* Ryan's enrollment forms, as required by the LET, are now completed and transmitted. *See Exhibit "B"* (with appropriate redaction of personal information). LET has agreed to and is bound by the terms of both state law and federal law in the implementation in its role as trustee. This includes its duties, its fees, other obligations that shall be adhered to, by law. This Court retains ongoing jurisdiction under Chapter 142 for any disputes, claims made, or other legal action affecting the trust.

4. Likewise, given the facts and circumstances, Plaintiffs request permission from the Court under Chapter 142 to allocated portions of the resolution in the form of a "structured settlement" with future annuity payments. The annuity selected, funded, placed, and managed shall be with BHG Structured Settlements, Inc. or related Berkshire Hathaway entities who shall make payments into the Ryan C. Cole Special Needs Trust on an agreed schedule based on an annuity in compliance with Section 142.008 and 142.009 of the Texas Property Code, as well as applicable federal law. While a separate motion will be filed by the parties to approve the underlying terms, Chapter 142 requires this Court to authorize not only the special needs trust, but the structured settlement by order. Plaintiffs make such a request and Defendants are unopposed to it, as well.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs respectfully request that the Court enter the attached order approving, authorizing and establishing the Ryan C. Cole Special Needs Trust and the right to allocated funds in a “structured settlement.”

Respectfully Submitted,

**AYRES LAW OFFICE, P.C.**

By: /s/ Christopher S. Ayres  
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**ATTORNEYS FOR PLAINTIFFS**

**CERTIFICATE OF CONFERENCE**

I hereby certify that on December 8, 2020, I conferred with Jim Jeffrey, counsel for Defendants regarding the merits of the foregoing Motion. Defendants are unopposed to the relief sought in this motion.

/s/ Christopher S. Ayres  
**CHRISTOPHER S. AYRES**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that, a true and correct copy of the foregoing pleading was forwarded to all registered counsel via the Court’s electronic filing system on the date and time of its submission.

/s/ Christopher S. Ayres  
**CHRISTOPHER S. AYRES**